IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH NOVEMBER 2006 / 26TH KARTHIKA 1928

Crl.MC.No. 3367 of 2004(A)

CC.24/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA
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PETITIONER:

ABDUL ASLAM, S/O.DAWOOD,
PUTHENVILAVEETIL, MUTTUPAALAM DESOM,
CHEMMERUTTI VILLAGE, KOLLAM.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SRI.SUNIL SHANKAR

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
VARKKALA POLICE STATION, KOLLAM BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. LAREEFA BEEVI, D/O.YOUSUFF KUNJU,
TAJ BHAVAN, KANNANALLURCHER
THRIKOVILVATTOM VILLAGE, KOLLAM TALUK.

BY ADV. SRI. K.G. BHASKARAN, PUBLIC PROSECUTOR
SRI.B.SURESH KUMAR
SMT.C.G.PREETHA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

CRL. M.C. NO. 3367 OF 2004

Dated this the 17th day of November 2006

ORDER

The petitioner, who is the accused in C.C. No. 24/2003 in the file of Judicial First Class Magistrate, Varkkala, has sought for getting quashed the proceedings alleging that the case set up against him is false and fabricated. The defacto complainant is the sister in law of the petitioner. It is stated that the petitioner is working in the Middle East and had came over to the native place on leave. According to him the complaint has been lodged only to harass him. It is alleged that the second respondent/defacto complainant was leading an adulterous life when her husband was working abroad. It is the case that the second respondent went to her parents house on 18.06.2006 and did not return thereafter. The petitioner's brother divorced her on 01.07.2002. The second respondent has initiated proceedings for return of the gold ornaments and thereafter filed private complaint against the petitioner, his mother and brother in law alleging offences under section 498 A r/w section 34 IPC (Annexure A). The matter was referred to the police under section 156 (3) Cr.P.C and the police after investigation implicated the petitioner alone. FIR has been produced

as Annexure B. The other proceedings pending initiated by the second respondent are for maintenance (M.C. 320/2002) and for return of gold ornaments, F.D. etc. vide M.C. 12/2002. The petitioner has produced a photo copy of the receipt issued by the second respondent as per which she has received back the gold ornaments and FD receipts and the same is allegedly signed by the second respondent vide Annexure C. According to the petitioner, the police have excluded from the case, his mother and brother in law and confined the charge against the petitioner alone. The final report has been produced as Annexure D. According to the petitioner, the final report will not disclose any offence under section 498 A IPC. and that the proceedings were initiated only to harass him and that the same will amount to abuse of the process of court and is liable to be quashed under section 482.

The genuineness of Ext.C3 has been denied by the counsel for the second respondent. I find that Annexure A complaint contains specific allegations against the petitioner that he shouted at the defacto complainant to get out of the house and caught hold of the tuft of her hair and slapped her on the face. Of course, the portion of the allegations implicating the second accused his mother and the 3rd

accused brother in law were disbelieved by the police. It appears that there are infirmities in the final report filed by the police but the same is hardly sufficient to quash the allegations against the petitioner. In the circumstances, I find that the proceedings are not liable to be quashed under section 482 Cr.P.C. The Crl. M.C is dismissed.

K.R. UDAYABHANU, JUDGE.

RV